

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ALLEN MITCHELL,

Plaintiff,

vs.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CASE NO. 5:12-CV-1288

OPINION & ORDER
[Resolving Docs. [1](#), [15](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On May 22, 2012, Plaintiff Allen Mitchell filed a complaint seeking judicial review of the Defendant Commissioner of Social Security's decision to deny him disability benefits.^{1/} Consistent with Local Rule 72.2, the matter was referred to Magistrate Judge Kathleen B. Burke. On May 30, 2013, Magistrate Judge Burke filed a Report and Recommendation recommending that the Administrative Law Judge properly assessed Mr. Mitchell's residual functional capacity and that the decision of the Commissioner is supported by substantial evidence in the record.^{2/} Accordingly, Magistrate Judge Burke recommended that the Commissioner's decision be affirmed.^{3/}

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection.^{4/} The

^{1/}[Doc. [1](#).]

^{2/}[Doc. [15](#).]

^{3/}[Doc. [15](#).]

^{4/}[28 U.S.C. § 636\(b\)\(1\)\(C\)](#).

Case No. 5:12-CV-01288
Gwin, J.

Act gives parties fourteen days to file objections.^{5/} Failure to object within this time waives a party's right to appeal the district court's judgment.^{6/} Absent objection, a district court may adopt the magistrate judge's report without review.^{7/}

In this case, neither party has objected to the Magistrate Judge's recommendation. Moreover, having conducted its own review of the Report and Recommendation, record, and parties' briefs, the Court agrees with the recommendation of Magistrate Judge Burke that the Court affirm the Commissioner's decision.

Accordingly, the Court **ADOPTS** in whole Magistrate Judge Burke's Report and Recommendation and incorporates it fully herein by reference, and **AFFIRMS** the Commissioner's denial of benefits.

IT IS SO ORDERED

Dated: June 17, 2013

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

^{5/}*Id.*

^{6/}Fed. R. Civ. P. 72(a); see also *Thomas v. Arn*, 474 U.S. 140, 145 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

^{7/}See *Thomas*, 474 U.S. at 149.